

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

VEGGIFRUIT, INC.

Plaintiff,

Case No. 4:20-cv-00189

- against -

BELLA FRESH HOUSTON, LLC, BELLA FRESH
PHOENIX, LLC, BELLA FRESH, LLC, and LAVA
HOLDINGS, LLC,

Defendants.

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UNOPPOSED MOTION TO EXTEND THE CLAIMS PROCEDURE DEADLINES
THIRTY DAYS

Plaintiff Veggifruit, Inc. (“Veggifruit”), by and through undersigned counsel, moves this Honorable Court for a short, thirty (30) day extension of the deadlines set forth in the Agreed Injunction Order and Order Establishing PACA Trust Claims procedure and Granting Related Relief (the “Order”) (Docket No. 38). In support hereof, Plaintiff states the following:

BACKGROUND

On February 5, 2020, the Bella Entities stopped operating.

On February 19, 2020, this Court entered the Order authorizing counsel for Plaintiff to collect and hold the accounts receivable of the Bella Entities in trust for the eventual distribution to the qualified PACA trust beneficiaries of the Bella Entities. The Order also set deadlines to issue notices and complete various tasks relating to the PACA claims procedure. The Order also required the Bella Entities to provide updated lists of the accounts receivable and accounts payable of the entities, and access to the “business books and records . . . including . . . all invoices, credit memos, accounts

receivable ledgers, insurance policies, inventory lists, accounts payable lists, customer, lists, and vendor invoices.”

This information is necessary to ensure all of the Bella Entities’ creditors are notified of the PACA claims procedure and to ensure that Plaintiff maximizes its recovery of the accounts receivable. The information is stored on the Bella Entities’ computer servers located at the Phoenix and Houston warehouses. The Bella Entities used three (3) software packages to track their finances, including the accounts payable, accounts receivable, and invoicing: Quick Books, Produce Magic, and CBS, which is a subscription-based software for tracking production and invoices.

Working with counsel for Andrew Ruggiero, counsel for Plaintiff identified a former employee who is willing to help counsel for Plaintiff obtain the information from the various computer programs, including a current list of the outstanding accounts payables/creditors of the Bella Entities so that all of creditors of the Bella Entities receive notice of the PACA Claims Procedure.

Counsel for Plaintiff intends to file a separate motion for authority to retain the services of the former employee within the week.

Counsel for Plaintiff also is working with counsel for the secured lender to restore power to the Houston and Phoenix warehouses where the servers are located so that they can be accessed remotely.

To ensure that there is sufficient time to access the system, review the records, and prepare the notices, Plaintiff respectfully requests a 30-day extension to all of the deadlines related to the PACA Claims procedure as follows:

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<u>Task</u>	<u>Current Deadline</u>	<u>Proposed, New Deadline</u>
Plaintiff's Counsel to Issue Notice of Deadlines	March 1, 2020	March 31, 2020
Deadline to Intervene & File PACA Proof of Claim	April 15, 2020	May 15, 2020
Deadline for Objections to Claims	May 15, 2020	June 15, 2020
Deadline for Responses to Claims Objections	June 10, 2020	July 10, 2020
Deadline to File PACA Trust Chart	June 30, 2020	July 31, 2020
Deadline to File Objections to PACA Trust Chart	July 7, 2020	August 7, 2020
Deadline for Interim Distribution from PACA Trust Account	July 31, 2020	August 31, 2020

Plaintiff respectfully submits that the brief extension is necessary to ensure that all potential parties-in-interest are notified.

Counsel for Plaintiff has discussed this proposed extension with counsel for Intervening Plaintiffs Andrew Smith Company, LLC, C&E Farms, Inc., Greenfield Fresh, Uesugi Farms, Inc., Froerer Farms, Inc. dba Owyhee Produce, Irigoyen Farms, Inc., and L.A. Specialty Produce Co., Inc. dba Vesta Foodservice, and counsel for secured lender Capital Equipment Solutions, LLC, who do not oppose this request.

WHEREFORE, Plaintiff respectfully requests entry of an Order extending the deadlines related to the PACA Claims Procedure, as set forth above.

Dated: March 4, 2020.

Respectfully submitted,

WALKER WILCOX MATOUSEK, LLP

/s/ Tony L. Draper

Tony L. Draper, Esq.

Texas State Bar No. 00798156

1001 McKinney, Suite 2000

Houston, Texas 77002

Telephone: (713) 343-6556

Facsimile: (713) 343-6571

tdraper@wwmlawyers.com

and

McCARRON & DIESS

Blake A. Surbey, Esq.

4530 Wisconsin Avenue, NW

Suite 301

Washington, D.C. 20016

(202) 364-0400

(202) 364-2731/ fax

bsurbey@mccarronlaw.com

Pro Hac Vice

Attorneys for Plaintiff

Certificate of Service

I certify that on this 4th day of March, 2020, copy of the foregoing Motion and Proposed Order was served on the below companies and/or their counsel of record via first-class mail and, if listed below, email.

June Monroe, Esq.
RYNN & JANOWSKY, LLP
2603 Main Street, Suite 1250
Irvine, CA 92614
Telephone: (949) 752-2911
Facsimile: (949) 752-0953
june@rjlaw.com

Suite 2500
Houston, Texas, 77002
Tye.hancock@tklaw.com

*Attorneys for Landlord of Houston Facility,
CICF II - TX2MO2-MO4*

Jessie Lopez, Esq.
Nicondra Chargois-Allen, Esq.
DAVIDSON TROILO REAM & GARZA, PC
601 NW Loop 410, Suite 100
San Antonio, Texas 78216
jlopez@dtrglaw.com
nallen@dtrglaw.com

Steve DeFalco, Esq.
Steve Nurenberg, Esq.
Meuers Law Firm
5395 Park Central Court
Naples, FL 34109
sdefalco@meuerslawfirm.com
snurenberg@meuerslawfirm.com

Attorneys for Proposed Intervener Plaintiffs

*Attorneys for Tanita Produce Company, Inc.
and Monterey Mushrooms, Inc.*

Philip R. Rudd, Esq.
Sacks Tierney P.A.
4250 N. Drinkwater Blvd
Fourth Floor
Scottsdale, AZ 85251

Jason R. Klinowski, Esq.
Wallace, Jordan, Ratliff, & Brandt, LLC
800 Shades Creek Parkway
Suite 400
Birmingham, AL 35209
jklinowski@wallacejordan.com

Potential Attorney for The Bella Entities

Attorney for Persevere Produce, LLC

Tom Coughlin, Esq.
Jaffe Raitt Heuer & Weiss, P.C.
2777 Franklin Road
Suite 2500
Southfield, MI 48034
tcoughlin@jaffelaw.com

Mark Amendola, Esq.
Martyn and Associates
820 W. Superior Avenue, 10th Floor
Cleveland, OH 44113
mamendola@martynlawfirm.com

Attorney for Cabbage, Inc.

Attorney for Loeb Term Solutions, LLC

BMO Harris Bank, N.A.
Attn: Legal Services
1200 E Warrenville Road
Naperville, IL 60563

Tye C. Hancock, Esq.
Sara Thornton, Esq.
Thompson Knight
811 Main Street

Jason Gang, Esq.

Law Office of Jason Gang, LLC
1245 Hewlett Plaza, #478
Hewlett, NY 11557
jason@jasongang.com

Attorney for Boaz Capital

Ryan J. Bird
Gilber Bird Law Firm, PC

10575 North 114th Street, Suite 115
Scottsdale, Arizona 85259
rbird@gilbertbirdlaw.com
*Attorneys for Landlord of Phoenix Warehouse,
EJM Coronado III Property, LLC*

/s/ Tony L. Draper
Tony L. Draper